

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Darrel Stamper,)
Plaintiff,) Civil Action No. 7:18-1407-BHH
vs.)
Medicredit, Inc.,)
Defendant.)

)

ORDER AND OPINION

This matter is before the Court for review of the Report and Recommendation of United States Magistrate Judge Kevin F. McDonald, made in accordance with 28 U.S.C. § 636(b) and Local Rule 73.02 for the District of South Carolina. On March 27, 2019, the Magistrate Judge issued a Report and Recommendation recommending the defendant's motion to dismiss the amended complaint for failure to state a claim (ECF No. 34) should be denied. (ECF No. 45.)

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this Court. See *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The Court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). The Court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. *Id.* The Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections are made.

Neither Plaintiff nor Defendant filed objections and the time for doing so expired on April 15, 2019. In the absence of objections to the Magistrate Judge's Report and Recommendation, this Court is not required to provide an explanation for adopting the

recommendation. See *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 and advisory committee’s note).

Here, because no objections have been filed, the Court has reviewed the Magistrate Judge’s findings and recommendations for clear error. Finding none, the Court agrees with the Magistrate Judge that Plaintiff has made sufficient factual allegations that the calls at issue were made to a residential telephone line for which he was the subscriber.

Accordingly, the Report and Recommendation is adopted and incorporated herein by reference, and Defendant’s motion to dismiss (ECF No. 34) is DENIED. This matter is remanded to the Magistrate Judge for further pretrial proceedings.

IT IS SO ORDERED.

/s/Bruce Howe Hendricks
United States District Judge

May 8, 2019
Greenville, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified that any right to appeal this Order is governed by Rules 3 and 4 of the Federal Rules of Appellate Procedure.